



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Via electronic mail

January 28, 2016

Ref: 8EPR-SR

Mr. Tim McGuire
Battle Mountain Development
440 Eagle Street
PO Box 56
Minturn, Colorado 81645

Re: Eagle Mine Superfund Site, Minturn, Colorado, Operable Unit 3 Feasibility Study Report

Dear Mr. McGuire:

The U.S. Environmental Protection Agency and the Colorado Department of Public Health and Environment (the Agencies) have completed their review of the *Battle Mountain Remediation Feasibility Study, Areas within OU1 of the Eagle Mine Site* (FS), dated December 18, 2013, and the associated response to comments prepared by Environmental Resources Management on behalf of the Battle Mountain Corporation (Battle), dated December 10, 2014, and September 20, 2015. The Agencies accept the FS, as amended by the response to comments, as a final document.

Although the title page references OU1, the FS focuses on Operable Unit 3 (OU3), areas of additional remediation proposed for redevelopment, within the Eagle Mine Superfund Site (Site). The primary objective of the FS is to ensure that appropriate remedial alternatives are developed and evaluated to enable the Agencies to select a preferred remedial alternative. The Agencies will now begin preparing the proposed plan for OU3, which will identify the preferred remedial alternative. Once the Agencies publish the proposed plan, the public will have the opportunity to comment during the prescribed public comment period.

In accepting the FS as a final document, the Agencies have agreed to allow Battle to address a number of items discussed in the response to comments during the remedial design and remedial action phases of work including, but not limited to, the following:

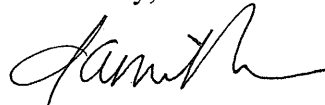
- Battle will comply with mitigation for the historic trestle structure identified by the Colorado State Historic Preservation Office.
- Wetlands:
 - Battle will update the Wetlands Delineation document (which exceeded its five-year validity period in 2015) during the remedial design phase.
 - Battle will implement applicable remedial alternatives based on the EPA's determination of contaminated versus uncontaminated wetlands.
 - Battle will leave wetlands M and BB in place, as required by the EPA, and provide long-term protection through institutional controls.

- Battle will combine smaller low-functioning wetlands on the OTP along the Eagle River to increase function and value.
- Battle will mitigate wetlands on-site or in the near vicinity, rather than in an off-site mitigation bank, to the extent practicable.
- Battle will protect all wetlands designated in the remedial design phase with appropriate institutional controls.
- Battle will use institutional controls on the site property to prohibit construction of basements and use groundwater sensitive designs as part of future development in wetland vicinities.
- Battle will install fencing or vegetative barriers around wetlands to prevent inadvertent disturbance.
- Battle will not preclude additional future on-site disposal of wastes at the CTP or elsewhere on site.

The Agencies and Battle agree that Bolts Lake is not included in the Site and that the remedial alternatives considered in the FS do not include response activities in Bolts Lake. The Agencies will select a preferred remedy, draft a proposed plan, and provide notice to the public to allow opportunity for comment, prior to producing the record of decision (ROD). The Agencies will consider all comments received in their development and finalization of the ROD. The Agencies will also provide an updated list of applicable or relevant and appropriate requirements in the ROD. At that time, the Agencies and Battle will enter into remedial design/remedial action negotiations, which will include recovery of past and future response costs associated with OU3.

Please contact Ms. Jamie Miller, EPA Superfund Remedial Project Manager, at (303) 312-6519, for technical matters concerning the Eagle Mine Site, and Ms. Laurianne Jackson, EPA Superfund Site Attorney, at (303) 312-6950, for all related legal matters.

Sincerely,



Jamie Miller
Remedial Project Manager
Superfund Remedial Program

cc: Steve Wharton, EPR-SR
Laurianne Jackson, ECEJ-LEP
Sharon Abendschan, ECEF-TEP
Wendy Naugle, CDPHE
Jason King, Colorado Attorney General's Office



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